



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Billy J. Spencer - Reimbursement of Travel
Expenses for Medical Treatment in Alaska

File: B-226722

Date: September 1, 1987

DIGEST

Under 4 C.F.R. Part 22, the National Weather Service and the National Weather Service Employees Organization ask whether an employee stationed in Barrow, Alaska, could be reimbursed under 15 U.S.C. § 1514(a) for expenses incurred in traveling to Anchorage, Alaska, to have a growth in his throat removed since there were no facilities to perform the operation in Barrow. Since, in the opinion of the physicians in Barrow and Anchorage, the employee needed immediate attention for the rapidly enlarging growth in his throat and since this condition could not have been foreseen or anticipated, we conclude that a proper basis exists for payment of these travel expenses.

DECISION

ISSUE

This action is in response to a joint request from the agency and a union for a decision concerning the proper interpretation and application of 15 U.S.C. § 1514(a), which authorizes the Department of Commerce to provide free emergency medical services to employees at remote duty stations in Alaska. Specifically, the question concerns the propriety of paying travel expenses when an employee obtained medical care away from his remote duty station for the removal of an enlarging growth in his throat. Since the employee needed immediate attention for a condition which could not have been foreseen or anticipated, we conclude that a proper basis exists for payment of the travel expenses.

BACKGROUND

This decision is in response to a joint request from Burton D. Goldenberg, Chief, Operations Division, National Weather Service, Alaska Region, Department of Commerce and

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Neal Marchbanks, Regional Chairman, National Weather Service Employees Organization. This matter was presented under our procedures set forth at 4 C.F.R. Part 22 (1986) for a decision on appropriated fund expenditures which are of mutual concern to federal agencies and labor organizations.

The question presented involves Mr. Billy J. Spencer, a Meteorological Technician at the Weather Service Office in Barrow, Alaska. In October 1986, Mr. Spencer was given a physical examination while on annual leave in Wichita, Kansas. During the examination, a growth was discovered in his throat and Mr. Spencer was advised that it would need to be removed if it increased significantly in size. On December 12, 1986, a physician in Barrow examined Mr. Spencer's throat and determined that the growth was about three times as large as was reported in the previous examination. Since there were no facilities to perform a biopsy of the throat in Barrow, the physician advised Mr. Spencer to consult with a specialist in Anchorage, Alaska, and provided him with the names of three specialists.

Mr. Spencer discussed this matter with his supervisor who requested that Mr. Spencer postpone the appointment until December 18 in consideration of staffing shortages. As a result, Mr. Spencer did not see the specialist in Anchorage until December 18, at which time the specialist examined him and performed a biopsy. Mr. Spencer returned to Barrow on December 19, and on the following week the specialist notified Mr. Spencer that the growth was benign.

Mr. Spencer submitted a travel voucher requesting reimbursement of \$475 for his airfare to and from Anchorage. The voucher was returned to him unapproved by the authorizing official in the Alaska Region, National Weather Service, but there was no written statement giving the basis for the failure to approve. In a letter to our Office dated June 15, 1987, the parties stipulated that the nonapproval of the voucher constituted an official administrative determination by the agency under 15 U.S.C. § 1514(a).

The submission indicates that the voucher was not approved on the basis that Mr. Spencer's case did not constitute an "emergency" entitling him to reimbursement of travel costs

under 15 U.S.C. § 1514, as stated in the National Weather Service Regional Operations Manual Letter A-73-10, dated April 30, 1973, and reiterated in a memorandum from the Regional Director to all Alaska Region employees, dated September 15, 1986. However, the record also contains a memorandum from Mr. Spencer's supervisor, C. O. Evans, to the Regional Director, Alaska Region, National Weather Service, dated January 3, 1987, which details the circumstances under which he prevailed upon Mr. Spencer to postpone his trip to accommodate other employees' work schedules. Mr. Evans writes:

"Now I understand [Mr. Spencer's] reimbursement for this trip can not be approved and can not be considered an emergency because of the delay made at my request. I would like to have this reconsidered and approval be granted for full reimbursement be made. * * * I should have handle it different and had him on the next available flight. * * *"

On January 13, 1987, the National Weather Service Employees Organization filed a grievance on Mr. Spencer's behalf with the National Weather Service. In the cover memorandum, the Organization stated:

"You have denied payment of this travel, stating that this was not an 'emergency room' type situation and therefore is not payable under current regulations. We have reviewed the regulations and it is our opinion that you have misinterpreted the regulations.

"A rapidly enlarging growth in a persons throat, which is possibly cancerous, is not a routine medical problem."

However, on February 17, 1987, the Organization agreed to withdraw the grievance in favor of a joint submission with the National Weather Service to the General Accounting Office. In the joint submission, dated April 3, 1987, the parties posed the following question for our consideration:

"Under the facts presented in Mr. Spencer's case, was there a medical emergency which required the agency to reimburse Mr. Spencer the cost of his air fare in accordance with 15 U.S.C. § 1514?"

OPINION

The authority contained in 15 U.S.C. § 1514 comes from the Act of October 26, 1949, Public Law 390, as amended, which authorizes appropriations to furnish Department of Commerce employees in Alaska or other areas outside the continental United States "free emergency medical services by contract or otherwise and free emergency medical supplies" for themselves and their dependents. Regulations implementing this provision are contained in the Alaska Region National Weather Service Regional Operations Manual Letter (ROML) A-73-10, dated April 30, 1973.

In a prior decision interpreting this language, we held it was evident from the legislative history of Public Law 390 that when emergency medical treatment was necessary, the employee would be allowed free transportation between his post of duty outside the continental United States and the place at which the emergency treatment could be obtained. B-120795, October 24, 1954.

In other decisions interpreting the meaning of the word "emergency," we held that there was nothing in the legislative history of Public Law 390 which would indicate that the word "emergency" was used in any other than its normal and customary sense; that is, "an unforeseen combination of circumstances which calls for immediate action." B-114715, July 21, 1967, and B-114715, May 27, 1953. In both cited cases, the factual question concerned whether medical services and travel incident to childbirth, either normal or potentially complicated, may be regarded as within the scope of the statute. In both cases we held that, since the medical services were anticipated and expected and could have been planned for in advance, no proper basis existed for payment of the expenses in question.

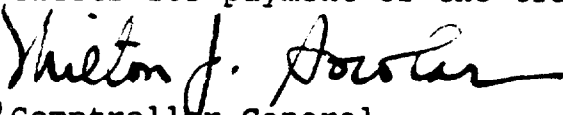
Attachment A to ROML A-73-10 contains examples of situations which further clarify the meaning of "emergency" and which establish that the law was not intended to be applicable to cases of a chronic or repetitive nature. Paragraph 1.a gives the following example:

"a. Transportation is provided for Mrs. John Doe, dependent, to the nearest hospital facilities for an operation for cancer. Once this operation has been performed and Mrs. Doe has been returned to N[ational] W[eather] S[ervice] residence, no further transportation under the emergency medical provisions can be provided for periodic checkups ordinarily required in such a case * * *

Nothing in this example indicates that Mrs. Doe's first operation was under "emergency room" conditions, although we can assume she needed immediate medical attention and that is why reimbursement of expenses incurred in connection with the first operation was allowed.

The same is true in this case. There are statements in the record before us from the physicians in Barrow and Anchorage who treated Mr. Spencer which support a determination that he needed immediate medical attention for the rapidly enlarging growth in his throat which could have proved malignant. There was nothing chronic or repetitive about this condition. Moreover, Mr. Spencer could not be said to have reasonably anticipated the need for immediate medical treatment since he had no way of knowing that the lump discovered earlier would grow so quickly and require prompt attention, unlike the childbirth cases where the individuals knew and could predict when medical treatment would be necessary. Finally, we do not believe Mr. Spencer should be penalized for delaying his trip in accordance with his supervisor's wish to accommodate scheduling.

Under these circumstances, our view is that a proper basis exists for payment of the travel expenses in question.

for 
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of the United States